

**N THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
(Richmond Division)**

ERIC DANTE PITT, for himself  
And on behalf of all similarly situated  
individuals,

Plaintiff,

v.

Civil Action No. 3:11-cv-697

KMART CORPORATION,  
A wholly owned subsidiary of Sears  
Holdings Corporation,

and

SEARS HOLDINGS CORPORATION,

Defendants.

**JOINT AND CONSENT MOTION FOR PRELIMINARY APPROVAL  
OF SETTLEMENT, APPOINTMENT OF CLASS COUNSEL, CERTIFICATION OF  
THE SETTLEMENT CLASS, AND FOR APPROVAL  
OF THE FORM, MANNER AND ADMINISTRATION OF NOTICE**

COME NOW the Plaintiff, Eric Dante Pitt (hereafter “Plaintiff” or “Pitt”) by counsel, and the Defendants, Kmart Corporation and Sears Holding Corporation (hereafter “Defendants” or “Kmart”) by counsel, and pursuant to Fed. R. Civ. P. 23(c) and (e), they jointly move the Court for preliminary approval of Settlement Agreement (Exhibit “A”) and approval of the form, manner and administration of notice contained therein. Pursuant to Rule 23(b)(3), with Defendant’s consent, Plaintiff moves for certification of the settlement class and appointment of class counsel. The Agreed Proposed Order is attached hereto as Exhibit “B”.

*Dated: January 25, 2013*

WE ASK FOR THIS:

\_\_\_\_\_/s/\_\_\_\_\_  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 25th day of January, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will then send a notification of such filing (NEF) to the following:

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